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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/722,859  | 11/26/2003  | Robert R. Turvey     | J-3668A             | 8567             |
| 28165   | 7590        | 07/15/2005           | EXAMINER            |                  |
| S.C. JOHNSON & SON, INC.<br>1525 HOWE STREET<br>RACINE, WI 53403-2236 |             |                      | SANDY, ROBERT JOHN  |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 3677                |                  |

DATE MAILED: 07/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/722,859

Applicant(s)

TURVEY ET AL.

Examiner

Robert J. Sandy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-61 is/are pending in the application.
- 4a) Of the above claim(s) See Continuation Sheet is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 4, 5, 8, 9, 14, 16, 19, 20, 23, 24, 32, 34-37, 40, 41, 46, 49, 52 and 60 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>approved dwg sheet</u> .               |

Continuation of Disposition of Claims: Claims withdrawn from consideration are 2,3,6,7,10-13,15,17,18,21,22,25-31,33,38,39,42-45,47,48,50,51,53-59 and 61.

## DETAILED ACTION

### *Election/Restrictions*

Applicant's election without traverse of Species 3 in the reply, filed on 27 April 2005 (cert. of mail date) is acknowledged. Applicant stated Species 3 corresponds to Fig. 5, readable on claims 1, 4, 5, 8, 9, 14, 16, 19, 20, 23, 24, 32, 34-37, 40, 41, 46, 49, 52, and 60, and believes that independent claims 1, 16, 34, and 46 are generic to all species. Hence, claims 2, 3, 6, 7, 10-13, 15, 17, 18, 21, 22, 25-31, 33, 38, 39, 42-45, 47, 48, 50, 51, 53-59, and 61 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species, there being no allowable generic or linking claim. Claims 1-61 are pending and at issue in the present application.

### *Information Disclosure Statement*

The information disclosure statement filed 12 July 2004 (cert. of mail date of 7/9/2004) lists a publication titled "Forget Me Not by Tupperware [www.tupperware.com](http://www.tupperware.com)" under the heading "OTHER DOCUMENTS" which has not been considered since it fails to comply with 37 CFR 1.98(b)(5), which requires "Each publication listed in an information disclosure statement must be identified by publisher, author (if any), title, **relevant pages of the publication, date**, and place of publication. The entry to "Forget Me Not by Tupperware [www.tupperware.com](http://www.tupperware.com)" has not been identified by at least the relevant pages of the publication, and a publication date. The publication has been placed in the application file, but the information referred to therein has not been considered.

The information disclosure statement filed 24 January 2005 (cert. of mail date of 1/21/2005) lists a reference to U.S. Patents No. 24,588 titled "Hay Spreader" (see US document A3 on Form PTO- 1449) which has not been considered since it fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information. It has been placed in the application file, but the information referred to therein has not been considered.

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The information disclosure statement filed 24 January 2005 further lists a reference to U.S. Patent Document No. "2003/002057" which has not been considered since this reference does not exist.

The information disclosure statement filed 24 January 2005 further lists numerous references to U.S. Patents which were not considered since it is not understood how each of the references are relevant to the subject matter of the instant application. The U.S. Patents Nos. which were not considered are:

|               |       |   |
|---------------|-------|---|
| US 6571951 B2 | USPAT | Rotating dispenser for multiple items of various sizes                        |
| US D466732 S  | USPAT | Dispensing box  |
| US D464994 S  | USPAT | Clamping push pin   |
| US D453654 S  | USPAT | Rack for compact disks  |
| US D449494 S  | USPAT | Hanging food storage container  |
| US 6273279 B1 | USPAT | Golf towel holder   |
| US 6224030 B1 | USPAT | Hook/hanger   |
| US D431451 S  | USPAT | Hanger  |
| US D424413 S  | USPAT | Hollow wall storage hook  |
| US 6056378 A  | USPAT | Add-on drawer and method of mounting  |
| US 5964359 A  | USPAT | Modular storage system  |
| US D411702 S  | USPAT | Wall mounted rack   |
| US D409031 S  | USPAT | Portable towel holder   |
| US 5813549 A  | USPAT | Storage rack  |
| US 5743438 A  | USPAT | Under shelf rack for water container  |
| US 5660284 A  | USPAT | Storage rack for container lids   |
| US 5650380 A  | USPAT | Lubricating grease  |
| US D376749 S  | USPAT | Bracket   |
| US 5586687 A  | USPAT | Gravity feed bottle dispensing device having a track-blocking gate mechanism. |
| US D375161 S  | USPAT | Stethoscope diaphragm holder  |
| US 5494250 A  | USPAT | Cleaning tissue holder  |
| US 5477969 A  | USPAT | Wall panel display system   |

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|              |       |  |
|--------------|-------|--|
| US 5383586 A | USPAT | Pull out cup and can holder  |
| US D353492 S | USPAT | Clothes hook   |
| US 5039902 A | USPAT | Overhead storage system  |
| US D312385 S | USPAT | Two prong hook   |
| US D312181 S | USPAT | Razor dispenser  |
| US D305431 S | USPAT | Double hook for a wall   |
| US 4808875 A | USPAT | Locker shelf and drawer assembly                                       |
| US D299423 S | USPAT | Holder for a shower brush or similar article                           |
| US 4787522 A | USPAT | Bag storage device   |
| US 4785971 A | USPAT | Bag storage and dispensing apparatus                                   |
| US 4700849 A | USPAT | Combination wine rack and glass retention/dispensing assembly.         |
| US D289140 S | USPAT | Container mounting bracket   |
| US 4653818 A | USPAT | Apparatus for organizing storage containers in a cabinet               |
| US 4632472 A | USPAT | Underhanging drawer system   |
| US 4580754 A | USPAT | Apparatus for mounting an appliance under a cabinet or the like.       |
| US 4577914 A | USPAT | Assembly of slidably interfitting storage units                        |
| US D276389 S | USPAT | Tissue box holder  |
| US 4396123 A | USPAT | Tape cassette holder   |
| US 4390102 A | USPAT | Support unit for packaged convenience foods                            |
| US 4304382 A | USPAT | Pegboard fasteners   |
| US 4244974 A | USPAT | Multi-layer alimentary paste   |
| US 4241668 A | USPAT | Supply container mounting  |
| US 4224974 A | USPAT | Mounting bracket for venetian blind assembly                           |
| US 4176817 A | USPAT | Releasable holder for boxes  |
| US 4140355 A | USPAT | Undercounter support   |
| US D247147 S | USPAT | Racket rack  |
| US 4043485 A | USPAT | Magazine for a plurality of fixtures holding integrated circuit chips. |

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|              |       |   |
|--------------|-------|---|
| US 3955789 A | USPAT | Tube holder   |
| US 3923278 A | USPAT | Wall hook structure and method of forming same                    |
| US 3729242 A | USPAT | MODULAR SLIDABLE MEMBER AND MOUNTING<br>BRACKET COMBINATION       |
| US 3413053 A | USPAT | Posting cabinet with file and posting surface                     |
| US 3100467 A | USPAT | Machine for making tufted fabric with cut and uncut pile<br>loops |
| US 3001678 A | USPAT | Shell holders   |
| US 2643046 A | USPAT | Multiple utility clamp and bracket                                |
| US 2600755 A | USPAT | Cover rack  |
| US 2593697 A | USPAT | Counter display device  |
| US 2315573 A | USPAT | Bracket for cartons   |
| US 2155760 A | USPAT | Box holder  |
| US 1994195 A | USPAT | Rack  |
| US 1866464 A | USPAT | Drawer support for workbenches                                    |
| US 1527282 A | USPAT | Cash drawer   |
| US 1349084 A | USPAT | Kettle-cover drainer and holder                                   |
| US 0710803 A | USPAT | Device for extracting tendons from the legs of fowls              |
| US 0441913 A | USPAT | Combined ash and cigar receptacle                                 |
| US 0371044 A | USPAT | Plate rack  |
| US 1897717 A | USPAT | Table attachment  |
| US 0873440 A | USPAT | Kitchen cabinet   |

### *Drawings*

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the feature pertaining to applicant's elected species shown in Fig. 5 "wherein at least one of the holding members or the base surface includes double-sided adhesive tape on an outer surface thereof" (claims 4 and 19) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

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Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### *Claim Objections*

Claims 14, 32, and 60, are each objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim.

Each of the claims 14, 32 and 60, do not further limit their respective previous claims since the limitation of "wherein the first direction is transverse to the second direction" is in reference to directions relative to a slide, in which the slider is not positively claimed. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claims 34, 35 and 37 are objected to because of the following informalities, as to the following: In claim 34, line 3, the phrase "the slider" should be changed to - - the slider closure - - in order to provide antecedent basis for "the slider";

In claim 35, line 2, the phrase "the slider" should be changed to - - the slider closure - - in order to provide antecedent basis for "the slider"; and

In claim 37, line 2, the phrase "the slider" should be changed to - - the slider closure - - in order to provide antecedent basis for "the slider." Appropriate correction is required.



***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, 5, 8, 9, 14, 16, 19, 20, 23, 24 and 32, are rejected under 35 U.S.C. 102(b) as being anticipated by Raum, Sr. (U. S. Patent No. 5,331,721)

Concerning claims 1, 4, 5, 8, 9, 14, 16, 19, 20, 23, 24 and 32, Raum, Sr. ('721) discloses a holding device capable of moving a slider of a thermoplastic bag in a first direction, comprising: a base surface (see Fig. 2 provided herein), and a pair of holding members (2, see Fig. 2 provided herein) extending from the base surface and capable of being insertable over a slider in a first direction and facilitating movement of the slider in a second direction;

(concerning claim 16) force applied to the holding device are capable of being transmitted to a slider;

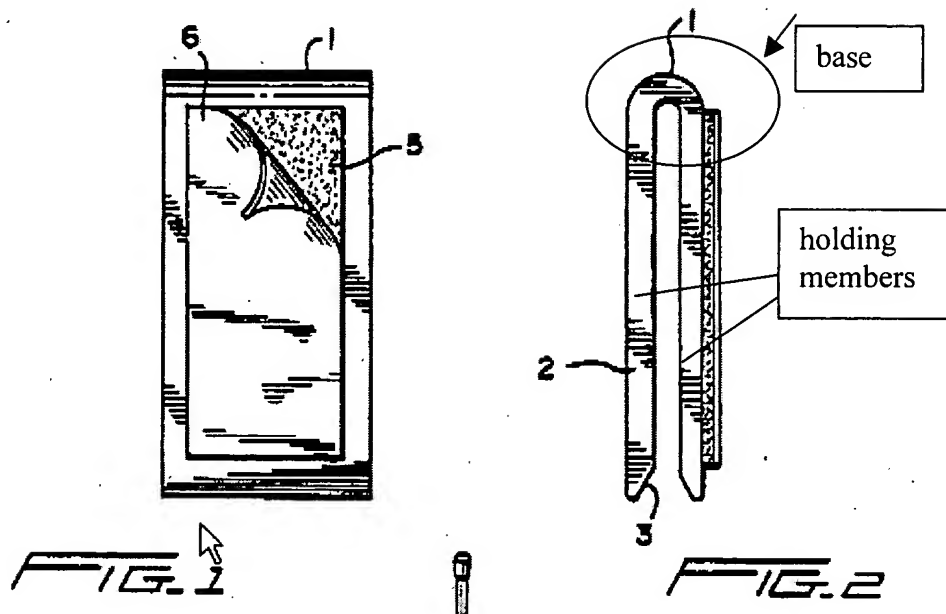
(concerning claims 4 and 19) at least one of the holding members or the base surface includes double-sided adhesive tape (5, 6) on an outer surface thereof;

(concerning claims 5 and 20) the holding members are capable of being spread apart;

(concerning claims 8 and 23) the holding members are spreadably apart manually;

(concerning claims 9 and 24) a notch (3) in at least one of the holding members aids a user in spreading apart the holding members manually;

(concerning claims 14 and 32, as best understood) the holding device has structure in a first direction that is transverse to a second direction.



Concerning claims 46, 49, 52, 60, Raum, Sr. ('721) a holding device (see Figs. 1 and 2 provided herein) comprising: a base surface; a pair of holding members (extending from the base surface; and means (end structure 3) for inserting the holding members over the slider in a first direction; and wherein the holding members being capable to facilitate movement of the slider in a second direction;

(concerning claim 49) at least one of the holding members or the base surface includes double-sided adhesive tape (5) on an outer surface thereof;

(concerning claim 52) the means for inserting the holding members over the slider include a notch (3) in at least one of the holding members; and

(concerning claim 60, as best understood) the holding device has structure in a first direction that is transverse to a second direction.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 34-37, 40 and 41, are rejected under 35 U.S.C. 103(a) as being unpatentable over Kettner (U.S. Patent No. 6,442,819: Kettner ('819) discloses a method for moving a slider closure (50) of a thermoplastic bag (10), the method comprising the steps of: contacting the slider closure (50) with a holding device (100); gripping the holding device; and moving the holding device relative to the bag; (concerning claim 35) contacting step includes the step of mounting the holding device on the slider; (concerning claim 36) the holding device includes a base surface (114) and a pair of holding members (103) extending from the base surface; (concerning claim 37) the step of mounting the holding device includes spreading (as demonstrated in Fig. 10) the holding members apart to engage the slider; (concerning claim 40) the step of mounting the holding device includes spreading the holding members apart manually (Fig. 10); and (concerning claim 41) wherein an undercut portion (135) in at least one of the holding members aids a user in spreading apart the holding members manually.

However, Kettner ('819) does not explicitly describe a step of gripping the bag. It would have been an to obvious inherent process step to one of ordinary skill in the art at the time the invention was made to have gripped the bag in order to prevent relative movement between the bag and the holding device when installing the slider onto the bag.

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***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure..

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Sandy whose telephone number is 571-272-7073. The examiner can normally be reached on M-F (7:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



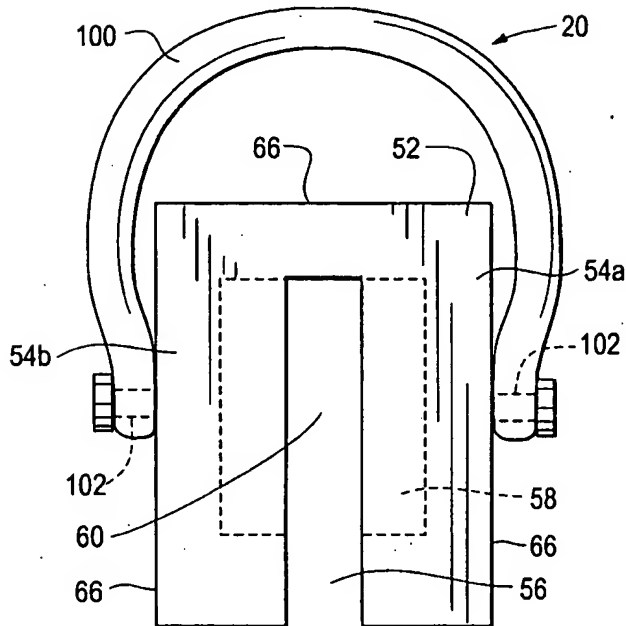
**ROBERT J. SANDY**  
**PRIMARY EXAMINER**

Robert J. Sandy  
Primary Examiner  
Art Unit 3677

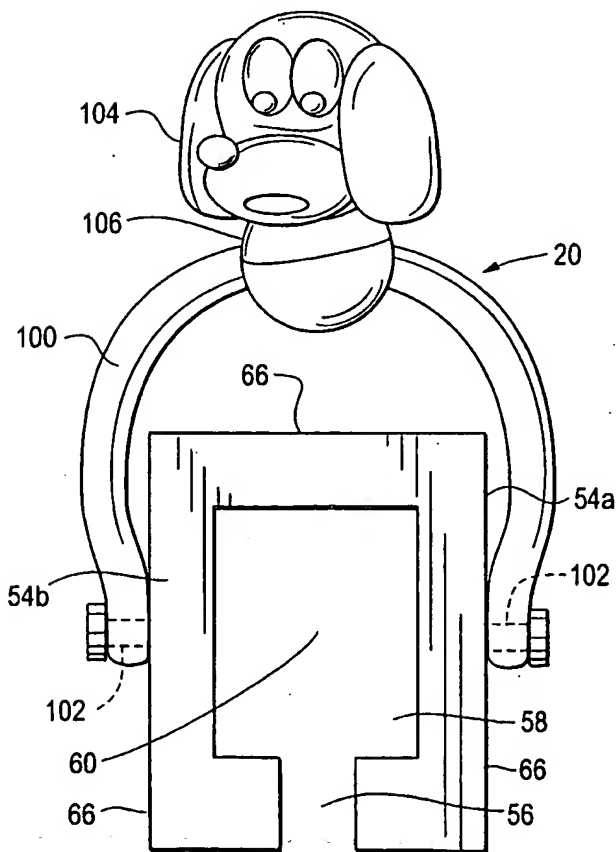


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**Fig. 18**



**Fig. 19**



*Approved: K. J. J.*